



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of CBS News, *et al.*

MUR 4946

**STATEMENT OF REASONS OF CHAIRMAN DARRYL R. WOLD
AND COMMISSIONER DAVID M. MASON**

On June 20, 2000, the Commission, per an amended pre-meeting tally vote, unanimously¹ decided that there was no reason to believe that Respondents (various media entities²) had violated any portion of the Federal Election Campaign Act ("FECA"), and voted to close the file. Complainant alleged that several television broadcasters, through "selective, unbalanced and excessive political news coverage," had made prohibited corporate contributions, were surrogate political committees, and had denied reasonable access to candidates, requiring review of their licenses by the Federal Communication Commission. The latter charge was beyond our jurisdiction. We dismissed the remaining allegations for lack of specificity. We write to clarify that, given the FECA's media exemption, greater specificity by Complainant would have yielded no difference in outcome.

The First General Counsel's Report faults the essence of the complaint -- "that the Respondents' political news coverage serves to advocate the election of unnamed federal candidates" -- as a failure to provide "factual support for the premise that the news stations advocate the election of individual candidates or political groups through news reporting." While this analysis is accurate, it erroneously implies that factual evidence of politically biased news reporting would have given rise to an RTB finding.

The FECA excludes from the definition of "expenditure" "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i). The courts have held the media exemption to be applicable when the entity operates within its "legitimate press function." *Readers Digest Ass'n, Inc. v. FEC*, 509

¹ Commissioner Elliott was absent from this Executive Session.

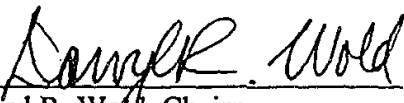
² These included CBS News, Fox Network News, CNBC News, NBC News, MSNBC News, CNN and ABC News.

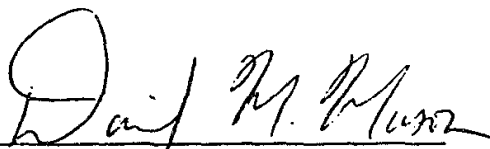
F.Supp. 1210, 1214 (S.D. N.Y. 1981); *see also* *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1313 (D. D.C. 1981). As the plain reading of press exemption provides, the content of any news story, commentary or editorial is irrelevant to the determination of whether the media entity is exercising its valid press function.

This straightforward reading of the media exemption is consistent with our unanimous treatment of it in MUR 4863. There, the complainant alleged that a radio talk show host "*expressly or implicitly advocated* the reelection of Senator D'Amato and/or the defeat of Representative Schumer. He may have also replayed portions of D'Amato advertisements and commented on them." First General Counsel's Report at 8-9. Nonetheless, we concluded that the "commentary apparently broadcast on the [radio talk show] would appear to be squarely within the 'legitimate press function' of [the radio station]." *Id.* at 9. Moreover, our conclusion was "not altered by the possibility that D'Amato advertisements may have been rebroadcast . . . within the context of [the talk show host's] commentary on them." *Id.* (citing AO 1996-48). Our analysis is also consonant with MUR 3624 (radio station alleged to have effectively broadcast unpaid advertising for Bush/Quayle via airing of Rush Limbaugh program [who had endorsed Bush/Quayle on his show] exercised its press function).

The General Counsel's Report wrongly leaves the reader with the impression that complaints alleging specific facts demonstrating politically biased news reporting could advance to the RTB stage. The FECA's media exemption does not give us authority to investigate charges of political bias in the news media. To the contrary, as our own prior actions indicate, politically biased reporting and commentary remain within the "legitimate press function."

June 30, 2000


Darryl R. Wold, Chairman


David M. Mason, Commissioner